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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

The situation of human rights in the territory of the former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the Security Council the report on the situation of human rights in the territory of the former Yugoslavia prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1992/S-1/1 of 14 August 1992 and Economic and Social Council decision 1992/305 of 18 August 1992 (see annex).

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ANNEX

Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 14 of Commission resolution 1992/S-1/1

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Introduction

1. At its first special session, the Commission on Human Rights adopted resolution 1992/S-1/1 on 14 August 1992 in which it requested its Chairman to appoint a special rapporteur to investigate first hand the human rights situation in the territory of the former Yugoslavia, in particular within Bosnia and Herzegovina, and to receive relevant, credible information on the human rights situation there from Governments, individuals, intergovernmental and non-governmental organizations, on a continuing basis, and to avail himself or herself of the assistance of existing mechanisms of the Commission on Human Rights.

2. The Special Rapporteur visited areas of interest in the former Yugoslavia, and in particular Bosnia and Herzegovina, from 21 to 26 August 1992 in order to report to the members of the Commission on Human Rights not later than 28 August 1992, in accordance with the request expressed in the resolution. Given the very limited time at the disposal of the Special Rapporteur, his first visit had to concentrate on the most urgent problems, notably the particularly dramatic situation in the Republic of Bosnia and Herzegovina. Under the circumstances, it was not possible to examine in depth all the human rights-related aspects of the tragic situation prevailing in that part of the former Yugoslavia. The present report therefore contains a diagnosis of the main problems on the basis of the evidence obtained during the mission, which has allowed the Special Rapporteur to understand the situation and to formulate recommendations.

3. The Special Rapporteur requested the Chairman of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture to accompany him on the mission. The Chairman of the Working Group on Arbitrary Detention, Mr. Louis Joinet, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre W. Ndiaye, were in a position to accept his invitation. This enabled the mission to examine a number of situations at the same time and within the short period available, to visit more places and interview more people than would otherwise have been possible.

4. In accordance with established practice, the mission met with representatives of Governments and local authorities as well as intergovernmental and non-governmental organizations. It also received information from representatives of political parties and minority groups and met with religious dignitaries of various faiths. The mission interviewed a number of victims of human rights violations from all the ethnic groups concerned as well as witnesses to such violations, and spoke to ordinary citizens in the various places visited.

5. It should be noted that although the visit concentrated on Bosnia and Herzegovina it was not possible to visit all the areas of interest in that Republic, owing to difficulties of access to certain areas of conflict surrounded by combat zones. It is therefore the intention of the Special Rapporteur to include in future missions not only parts of the former Yugoslavia not yet visited but also to return to those areas of Bosnia and Herzegovina in which additional investigations will be necessary, in particular in connection with the problem of detention camps.

I. OBSERVATIONS CONCERNING THE SITUATION OF HUMAN RIGHTS IN THE AREAS VISITED

A. The policy of ethnic cleansing

6. Most of the territory of the former Yugoslavia, in particular Bosnia and Herzegovina, is at present the scene of massive and systematic violations of human rights, as well as serious grave violations of humanitarian law. Ethnic cleansing is the cause of most such violations.

1. Ethnic cleansing directed against Muslims and ethnic Croatians in the territories of Bosnia and Herzegovina and Croatia under the control of ethnic Serbs 1/

7. The Special Rapporteur was able to collect credible testimony concerning the policy of ethnic cleansing and the methods applied to achieve its aim. According to the testimony received, the policy has been openly pursued on the territory of those parts of Bosnia and Herzegovina and Croatia which are controlled by ethnic Serbs.

8. The methods used are illustrated by the testimony of a witness from Bosanska Dubica. According to the witness, the elected authorities who were moderates or who tried to prevent acts of violence were dismissed and replaced by Serbian extremists. Muslims, who represented the majority in Bosanska Dubica, and to a lesser extent Croatians were continuously subjected to harassment, discrimination and violence perpetrated by Serbian soldiers, Serbian mercenaries and even by some of their Serbian neighbours in the village. The witness described an incident in which Serbian soldiers from different villages boasted in her presence about the number of Muslims they had killed.

9. Several people, among them a boyfriend of the witness, were killed. Every night, during a curfew imposed from 10 p.m. to 5 a.m., houses were burnt. The mosque was also burnt down. A large number of people were arrested. Taken to the local police station for interrogation, they were either beaten and tortured by the police or forced to beat each other. Children from Muslim or Croatian families were refused treatment at the local hospital.

10. At the beginning of June, 200 men were arrested and taken to the detention camp in Manjaca. Among them were 10 Croatians, whom the Serbs had labelled "Muslim extremists". Reportedly, after the first visit by representatives of the International Committee of the Red Cross (ICRC) to the camp, the families in Bosanska Dubica received typewritten letters from their relatives stating that they were well.

1/ See annex II, "Observations concerning the parties in control of the territories visited".

11. Muslims who wanted to leave the village were allowed to do so only together with their entire family. The transfer of the refugees was organized by the local Red Cross, which cooperated closely with the local Serbian authorities. Before those willing to leave were permitted to do so, they were forced to sign documents stating that they would never come back. No reference was made in those documents to their possessions in the village, their houses in particular. The witness stated that they could either sell them at a ridiculous price or give the keys to the municipality for the duration of their absence which, after they had signed the above-mentioned documents, was supposedly for ever.

12. Indeed, a variety of methods are used to pursue ethnic cleansing. Ethnic Croatians and Muslims employed in the public sector have been fired because of their ethnic origin. The public sector is large in the former Yugoslavia, and tens of thousands of persons have been affected by such measures. In so far as persons employed in the private sector are concerned, evidence was received that the shops and businesses owned by ethnic Croatians have been burned or looted.

13. In territories controlled by ethnic Serbs, shooting during the night at homes belonging to members of other ethnic groups or throwing explosives into them are common forms of intimidation. One such incident occurred a few days before the arrival of the Special Rapporteur in Banja Luka. In the village of Celinac, 17 houses occupied by Muslim families were blown up in a single night, after reports were received that some soldiers from the village had been killed in combat. As a result, and since it would have been impossible to flee the region, some 650 Muslims sought refuge in a school. The ICRC had not yet been allowed to visit the school, and there was fear that the Muslims were in danger of starvation. During his interview with the authorities in the regional capital, some 15 kilometres from Celinac, the Special Rapporteur asked whether it would be possible to visit the school. Despite the fact that one of the authorities present was President of the Regional Executive Council and that there was no reason to think that the Muslim families were in custody, the Special Rapporteur was informed that it would not be possible to visit the school without the permission of the mayor of the village, who was said to be away visiting the battle-front. He was promised that the ICRC would be allowed access and to provide relief.

14. Another recent example brought to the attention of the Special Rapporteur concerned the displacement of some 1,000 Muslims from their homes in the town of Sanski Most, 28 kilometres from Banja Luka, the week before his visit. These persons were driven by the local authorities towards territory controlled by the Government of Bosnia and Herzegovina, but were left on their own inside Serbian-controlled territory. The ICRC does not assist in such forced evacuations, since it wishes to avoid cooperating in ethnic cleansing. Consequently, in order to reach a zone controlled by friendly forces, the victims of ethnic cleansing must cross through combat zones, at great risk to their life and safety.

15. Such tactics were also common in the Serbian-occupied areas of Croatia, especially prior to the deployment of the United Nations Protective Force (UNPROFOR). In the United Nations Protected Area (UNPA)-North the members of the mission saw one town which was almost completely destroyed and others

where the homes belonging to Muslims had been selectively destroyed by explosives. The use of such tactics has decreased thanks to the efforts of UNPROFOR to restrain the activities of the local militia, but the shootings and the bombing of homes continues in the UNPAs, although on a lesser scale, and the victims of ethnic cleansing continue to flee.

16. Attacks on churches and mosques is also part of the campaign of intimidation used to force Muslims and ethnic Croatians to flee Bosnian territory, and the mission saw places of worship bearing the marks of bullets and explosives during its trip to Banja Luka.

17. The siege, including the shelling of population centres and the cutting off of supplies of food and other essential goods, is another tactic used to force Muslims and ethnic Croatians to flee. The most dramatic and well-known case is Sarajevo, the capital of Bosnia and Herzegovina. The city is shelled on a regular basis, in what appears to be a deliberate attempt to spread terror among the population. Snipers shoot innocent civilians. The mission visited the hospital, and was able to see many civilian victims. It was also able to see the damage done to the hospital itself, which has been deliberately shelled on several occasions, despite the proper display of the internationally recognized Red Cross symbol. Cultural centres have also been targeted, leading some observers to the belief that the attacking forces are determined to "kill" the city itself, and the tradition of tolerance and inter-ethnic harmony which it represents.

18. The civilian population lives in a constant state of anxiety, leaving their homes or shelters only when necessary. Any movement out of doors is hazardous, and many persons and families spend long periods in isolation. The public systems for distribution of electrical power and water no longer function. Food and other basic necessities are scarce, and depend on the airlift organized by UNHCR and protected by UNPROFOR. UNPROFOR barracks and headquarters, as well as the airport itself, have been among the principal targets of the shelling. All three were attacked during the few hours that the mission was in Sarajevo. Delivery of such humanitarian supplies as do arrive is problematic. All inhabitants of the city are seriously affected by the fighting and the siege.

19. The Special Rapporteur also visited Vukovar, a city in eastern Croatia almost entirely destroyed by shelling during a siege which commenced in November 1991 during the attack on Croatia by the Yugoslav army. It is to be feared that the same fate may befall Sarajevo, unless action is taken to prevent the constant bombardment by mortars and artillery.

20. The city and region of Bihac, in north-west Bosnia, is also besieged by ethnic Serbian forces. Shelling occurs daily. There are no significant military targets in the city, and the main reason for the shelling appears to be that of terrorizing the civilian population. Fifty-one children have been killed there since the beginning of the war, according to the physician who is director of the hospital, and the hospital itself had been struck by shells on three occasions. Humanitarian convoys bring a limited amount of food and medicine to the town and carry some of those needing specialized medical care

to better equipped hospitals outside the region. However, the lack of certain medical supplies and the limited access to medical facilities constitute a grave threat to the health and lives of those in need.

21. The siege has also had a dramatic effect on the economy of the region, making this previously prosperous area dependent on food aid provided by the international community. A humanitarian worker interviewed in Bihac who had previously worked in Kurdistan said that the economic blockade of Bihac was "a hundred times worse" than the one in Kurdistan.

22. Other cities and regions in Bosnia and Herzegovina are reportedly in a similar situation.

23. The detention of civilians is clearly being used as a method of pressuring them to leave the territory. In many cases, after agreeing to leave, they are obliged to sign documents renouncing their claim to their homes and other property, or indicating that they agree to donate their property to the local government. Ethnic Serbs in Bosnia and Herzegovina have also adopted the policy of "exchanging prisoners". According to some impartial observers, the need to obtain ethnic Serbs to exchange against detained Muslims is one of the main reasons for arbitrary detention of ethnic Serbs in Bosnia and Herzegovina.

2. The situation elsewhere in Bosnia and Herzegovina

24. The Muslims have been accused of pursuing a deliberate policy of emptying the territory under their control of ethnic Serbs. Members of the mission were able to visit Bihac, a predominantly Muslim area under government control. The information obtained led to the conclusion that no policy which could be compared to ethnic cleansing is being applied in this region. Unfortunately, the visit of the mission to Sarajevo had to be terminated prematurely due to an intensification of attacks on United Nations forces stationed there, and it was not possible to visit other regions of central Bosnia under the control of the recognized Government. Consequently, it was not possible to verify whether the policy of tolerance observed in Bihac is common to other areas controlled by the Government of Bosnia and Herzegovina.

25. Some information was received that a policy of ethnic cleansing is being applied against ethnic Serbs and Muslims in an area of Bosnia and Herzegovina adjacent to southern Croatia, where the population is predominantly of Croatian origin. It was not possible to visit this area during the first mission, and thus not possible to investigate the situation prevailing there nor the extent to which this area is under the effective control of the recognized Government of Bosnia and Herzegovina. Efforts will be made to visit this area at the earliest opportunity.

3. The flight of ethnic Serbs from Croatia

26. Discrimination, harassment and maltreatment of ethnic Serbs are also serious and widespread problems in Croatia. These practices have resulted in the flight of a large number of ethnic Serbs to Serbia and to those parts of Croatia and Bosnia and Herzegovina under the control of ethnic Serbs.

27. The mission received copies of published lists of citizens of Croatia indicating their ethnic origin. These lists are widely distributed, and even available for sale to the public. The circulation of such lists facilitates discrimination and harassment throughout the society. Tens of thousands of persons have reportedly lost their jobs as a result. The mission was also informed that ethnic Serbs suffer discrimination in the exercise of their political rights, in education and in their right to a pension.

28. In a refugee camp near Belgrade, members of the mission interviewed a citizen of Croatia of Serbian origin who had been prosecuted for rebellion. After acquittal, he was denounced by the local radio as a "chetnic", that is, a member of the virulently anti-Croatian paramilitary group believed responsible for the commission of many atrocities against the civilian population. He considered this accusation to represent an implicit threat against his life and safety, and fled to Serbia, leaving his wife and children in Croatia.

29. In Croatia, the Chairman of the Working Group on Arbitrary Detention received evidence of the detention of large numbers of ethnic Serbs on charges of rebellion, often with no tangible evidence of real links to the unrecognized government of "Krajina" and the forces loyal to it. This practice, in effect, amounts to detention of the civilian population on the basis of their ethnic origin.

30. The importance of the human rights violations suffered by ethnic Serbs in Croatia cannot be underestimated or minimized. Nevertheless, the evidence available at this time suggests that the practices which have caused large numbers of Serbs to flee to Serbia and to parts of Croatia and Bosnia and Herzegovina under the control of ethnic Serbs, however repugnant, cannot be compared to the systematic use of violence employed against ethnic Croatians and Muslims in Bosnia and Herzegovina.

4. The situation in Serbia and Montenegro

31. The leadership of the Federal Republic of Yugoslavia, which comprises the Republics of Serbia and Montenegro, does not openly endorse the policy of ethnic cleansing. In a statement made to the Special Rapporteur, the President of the Federal Republic of Yugoslavia condemned ethnic cleansing. He also stated that the solution to the ethnic conflict in Bosnia and Herzegovina is "cantonization", which he defined as the establishment of ethnically mixed units within Bosnia and Herzegovina with reciprocal guarantees for the rights of ethnic Serbs, ethnic Croatians and Muslims. The President of Serbia also repudiated the policy of ethnic cleansing in statements to the Special Rapporteur. However, the Federal Republic of Yugoslavia and Serbia clearly exercise very great influence on the "Serbian Republic of Bosnia and Herzegovina" which, without their cooperation, would be completely cut off from the rest of the world. There is thus far no evidence that the Federal Republic of Yugoslavia and Serbia have taken effective measures to use their influence to put a stop to ethnic cleansing in Bosnia.

32. In addition, there is some evidence that ethnic cleansing may be imminent in certain parts of Serbia and Montenegro where there are large communities of persons not of Serbian origin. In Kosovo, where the population of Albanian origin has complained of discrimination and oppression for many years, non-governmental organizations presented evidence of an increasing number of torture and killings. In Vojvodina, in the north of Serbia, where there are large numbers of persons of Hungarian, Croatian and other origins, an increase in the harassment and intimidation of the non-Serbian population has been reported. Thousands of persons are already reported to be fleeing the region of Sandzac, on the border of Serbia and Montenegro, where the population is largely Muslim. It was not possible to visit any of these areas during the mission, and the Special Rapporteur intends to explore these aspects of his mandate further during future missions.

B. Other serious human rights violations

1. Detention

33. Detention has occurred in various contexts in the territories of the former Yugoslavia, including the war between Croatia and Serbia and Montenegro, the current conflict between various forces within Bosnia and Herzegovina and the continuing low-intensity conflict between the Croatian army and militias and the ethnic Serbs who occupy the UNPAs in Croatia. Nearly all the prisoners of war taken by both sides in the conflict between Croatia and Serbia and Montenegro have been exchanged. Within Bosnia and Herzegovina, an unknown number of true prisoners of war, i.e. combatants, are held by the various parties to the conflict. Civilians have also been detained in order to force them to leave their homes as part of the policy of ethnic cleansing, as indicated above.

34. At this stage, it is not possible to estimate the number of persons presently in detention, or the number who have been detained since the beginning of the conflict. Credible reports have been received concerning the use of unrecognized detention facilities containing from 10 to 100 prisoners, including homes, schools, disused factories and warehouses, sports facilities and the like. This practice has been reported in Croatia as well as in Bosnian territories under the control of the Government as well as territories under the control of ethnic Serbs. Increased use of this practice has been reported in Bosnian territories under the control of ethnic Serbs in recent weeks, since the issue of detention camps has come to the attention of international public opinion, in an apparent attempt to prevent access by international observers.

35. Although some prisons were visited, the mission was not able to visit any detention camps. This was due in part to the fact that few camps were located near the cities visited. The Special Rapporteur did, however, try to visit the military camp known as Manjaca, near Banja Luka, which is said to be the largest detention camp on Bosnian territory under the control of ethnic Serbs. The mission reached the camp and was informed by the officer in charge that 3,000 prisoners of war were currently being held there. The Special Rapporteur requested the officer in charge to grant permission to visit the prisoners but this was denied. The officer in charge stated that

the prisoners were "tired of being visited by international missions"; he then said that it was too late in the day for a visit, although it was more than an hour before sunset; finally he indicated that he could not allow the prisoners to be seen because the mission had not requested permission from the central authorities to enter the "Serbian Republic of Bosnia-Herzegovina". The treatment the Special Rapporteur received from the officer in charge gave him a vivid impression of the state of terror under which the detainees are presumably living.

36. Although the mission failed to see the prisoners in Manjaca camp, it was provided with information, including photos, by persons who had visited the camp a few weeks earlier. Many prisoners were in a poor state of health, with signs of malnutrition and in some cases torture. The Special Rapporteur has also been informed that a man detained at Manjaca camp who was recently taken to hospital weighed only 34 kilogrammes. Well-informed sources estimated that the number of prisoners was in all probability considerably higher than the official figures indicated.

37. Prisoners were also interviewed during the visit to the Bihac prison, in Bosnian territory under government control. No complaints of torture were received.

2. Executions

38. Many allegations of the systematic execution of prisoners by all parties were also received from Governments or other sources whose objectivity could not be confirmed. The only information received from an impartial source concerned allegations received by the Special Rapporteur on extrajudicial, summary or arbitrary executions of the systematic execution of prisoners in an area controlled by the White Eagles paramilitary group in north-eastern Bosnia. Access to this area is very difficult, and the allegations have not been proven.

39. There is credible evidence that some prisoners have died of torture and mistreatment in both Croatia and the various parts of Bosnia and Herzegovina, and at the present stage of this investigation it cannot be ruled out that executions may have been carried out systematically in other regions. However, many allegations of systematic execution - like allegations of the existence of large camps of detainees - have been investigated by the humanitarian bodies present in the territories, and proven false. A real threat to the lives of prisoners does exist, however, because of the poor nutrition, crowding and other substandard conditions of detention, in particular as the weather turns colder in the coming weeks and months.

40. The greatest threat to life at present comes from the shelling of civilian population centres and the shooting of civilians in besieged towns. In addition, there is a risk that massive numbers of civilians will die from malnutrition, illness and exposure unless the present siege of various areas of Bosnia and Herzegovina under government control is lifted before the arrival of winter.

3. Disappearances

41. The Special Rapporteur was also informed about the massive occurrence of disappearances in territories controlled by ethnic Serbs. Three thousand disappearances were reported to have occurred in the aftermath of the fall of Vukovar; it was alleged that these persons had been held for a certain period in camps and had subsequently disappeared.

4. Other violations

42. The Special Rapporteur has been informed of particularly grave incidents of physical abuse of Catholic priests and nuns by Serbian forces in the area of Banja Luka.

43. The President of the Working Group on Arbitrary Detention was able to visit Bjelovar prison, in Croatia, where he interviewed two prisoners who complained of torture after their capture on 5 August 1992. The methods of torture used included beatings, which caused broken teeth and ribs, electric shock, mock execution, burning with cigarettes and burning of the beard of one of the prisoners. They were tortured first by the local police and later, for a period of several days, by the military police. This member of the mission was allowed to examine the files of the prison which contained the records of prisoners who had arrived at the prison showing signs of torture. The relevant authorities have different attitudes towards such serious violations of human rights. It is to the credit of the Government that some prison officials duly register evidence of torture and provide all necessary medical care to victims of torture who come into their custody. However, UNPROFOR civilian police officials report that the Croatian police fail to cooperate in the investigation of such crimes, in which the police themselves are often involved.

C. Factors contributing to the violation of human rights

44. The Special Rapporteur noted with great concern the extent to which the population is armed, especially in the territory of Bosnia and Herzegovina under the control of ethnic Serbs. He was particularly disturbed by the pervasive presence of heavily armed men and women, in and out of uniform, in Banja Luka, despite the claim by local authorities that the area was "at peace". UNPROFOR military officials from many different countries as well as representatives of international humanitarian bodies repeatedly drew attention to the dangers inherent in having large numbers of persons assume military functions without adequate training, and without a proper command structure. The wide distribution of weapons among the population greatly facilitates the tactics used to terrorize people in order to promote ethnic cleansing, such as shooting at houses and blowing them up.

45. In Vukovar, UNPROFOR informed the mission of the difficulties they encountered in trying to implement an agreement that the so-called "civil defence units" would be disarmed. At first, their members were transformed into so-called "Special Police". When objections were raised the members of the Special Police became members of the ordinary police. This situation still prevailed at the time of the visit. According to UNPROFOR, only 10 to 15 per cent of the police force in Vukovar has any professional training for

this function. Incidents of intimidation (shooting of homes at night, or blowing them up) and more serious crimes, including killings by unknown persons, continue to occur with some regularity in this area. The UNPROFOR civilian police investigate such crimes and turn the evidence over to the local police for action. The failure of the local police to take effective action to investigate such reports is a serious problem affecting not only Vukovar, but also other UNPAs as well.

46. In effect, there appears to be a nearly total absence of the rule of law in both the UNPAs and in large parts of Bosnia and Herzegovina, with many decisions being taken on a purely ad hoc basis by local civilian or military authorities. A related problem has been reported in Vukovar, where the agreement establishing UNPROFOR provides that it is to respect the local law in force; however, the legislature of "Krajina" has adopted legislation which discriminates on the basis of ethnic origin, in violation of international standards.

47. Rumours and disinformation are not only widespread, they are a crucial element of the present situation in the former Yugoslavia, greatly contributing to ethnic hatred and fuelling the desire for revenge that is one of the main causes of the atrocities which occur. With rare exceptions, the national media in all of the countries visited tend to present news concerning the conflict and human rights violations in a manner which can only be described as distorted. Consequently, the general public has no access to reliable, objective sources of information. Among the international press, there is a tendancy to emphasize the most sensationalistic aspects of the situation, thus reinforcing the distrust and tension which prolong the conflict.

D. Difficulties affecting the functioning of humanitarian organizations

48. International organizations operating in the territories of the former Yugoslavia, especially Bosnia and Herzegovina, are faced with extraordinary difficulties. The greatest difficulties are undoubtedly experienced in Sarajevo, where UNPROFOR and UNHCR offices and vehicles frequently come under attack from shelling and snipers. The ICRC ceased operations in Sarajevo after one of its representatives was assassinated. Their absence has created a serious gap in the services offered to victims of the conflict in that area, including verification of conditions of detention, tracing of missing family members and the transmission of messages between prisoners and their families. Representatives of various humanitarian bodies indicated that, while the number of international humanitarian personnel killed thus far is small, there have been numerous incidents which might have ended tragically, especially in the areas of Bosnia under the control of ethnic Serbs. On several occasions, for example, the representatives of ICRC in Banja Luka and of the civilian administration of UNPROFOR in Vukovar were threatened by gunpoint.

49. The lack of clear lines of command, the absence of the rule of law and attitudes of distrust and hostility towards international organizations often lead to situations where extensive negotiations are required before humanitarian operations can be carried out, and where the implementation of routine humanitarian operations tends to meet with unexpected obstacles and

difficulties. The net result is to diminish the efficiency of such humanitarian bodies, reducing the benefit to the populations in need. In so far as visits to persons in detention are concerned, agreements allowing ICRC unrestricted access to any place of detention are not respected, especially in Bosnian territory under the control of ethnic Serbs.

50. In territories of Croatia and Bosnia and Herzegovina under the control of ethnic Serbs, international organizations have repeatedly encountered special difficulties in deciding whether or not they should compromise their principles in order to avoid tragic loss of life. The forces responsible for carrying out ethnic cleansing deliberately put such humanitarian bodies in the position of either becoming reluctant accomplices to ethnic cleansing, by helping move target groups out of the area being "cleansed" to an area of safety under the control of other parties, or leaving them to their fate which according to the circumstances, may be detention, starvation or the risk of summary execution.

E. Conclusions

51. Massive and grave violations of human rights are occurring throughout the territory of Bosnia and Herzegovina.

52. Human rights violations are being perpetrated by all parties to the conflicts. There are also victims on all sides. However, the situation of the Muslim population is particularly tragic: they feel that they are threatened with extermination.

53. Acts of violence are tolerated and often even encouraged by responsible authorities. Consequently, the rule of law does not exist.

54. The situation of people being detained in camps and staying in refugee centres is particularly dramatic.

55. The indoctrination of a large part of the population that is taking place encourages national and religious hatred.

56. In spite of the high level of commitment of the United Nations personnel - UNPROFOR and UNHCR - they are unable adequately to protect the affected population and in many circumstances are helpless to prevent violations of human rights.

57. There is an urgent need for immediate concerted action. Even when peace is achieved, serious violations of human rights are likely to continue due to the intensity of mutual distrust and hatred.

II. RECOMMENDATIONS

I.

58. The heavy weaponry on the territory of Bosnia and Herzegovina should immediately be neutralized, by grouping them under the supervision of UNPROFOR if necessary. The strict implementation of agreements adopted and the principles endorsed by the London Conference in this regard is indispensable.

59. The United Nations should call upon the authorities controlling the different parts of the territory of Bosnia and Herzegovina to disarm the irregular armed forces and civilians. This should be supervised by UNPROFOR.

60. The United Nations should, without delay, issue a peremptory warning to the authorities controlling the different parts of the territory of Bosnia and Herzegovina that, with respect to their duty to safeguard the security of the civilian population, they may, in accordance with the norms and standards of international law, be brought to justice not only for the direct perpetration but also for the toleration of acts of atrocity, violence and other violations of human rights.

II.

61. The United Nations should continue firmly to call upon the competent authorities to abandon the policy of ethnic cleansing in all its forms. Every victim of this policy should be guaranteed the possibility of claiming his/her rights under international supervision. This should also be the case in regard to those persons who have been forced to consent to "voluntary" displacement. No norms or decisions issued by the authorities conducting the policy of ethnic cleansing can make this policy and its consequences legal.

62. There is a real possibility that the most violent forms of the policy of ethnic cleansing will spread to Kosovo, Sandzak and Vojvodina. This danger requires the immediate creation of an international mechanism to monitor the human rights situation on those territories. It would be highly advisable to secure the cooperation of the Conference on Security and Cooperation in Europe in this respect.

III.

63. It is indispensable not only to increase the size of UNPROFOR but also to expand its mandate in three areas. First, the mandate should cover the whole territory of Bosnia and Herzegovina; second, UNPROFOR personnel should have the right to react directly to the human rights violations committed in their presence and to assist the victims; third, UNPROFOR personnel should be given the mandate to collect information and receive complaints concerning human rights violations occurring also on the territories which at present are not covered by UNPROFOR's mandate. This should include access by the UNPROFOR civilian police to places of detention. Their findings should be communicated not only to the local police but also to the competent judicial authorities.

IV.

64. The situation of persons detained in camps and remaining in centres for refugees requires prompt action. ICRC should be granted full access to all detention camps and centres, regardless of their size.

65. The full implementation of the principles endorsed and agreements adopted by the London Conference in regard to the dismantling of internment camps is necessary. However, obstacles preventing the return of the persons released from the camps to their homes must not lead to the consolidation of the situation resulting from the policy of ethnic cleansing.

V.

66. The United Nations agencies and the International Committee of the Red Cross should reinforce the efficiency of the system of information on the fate of persons who have been forcibly separated from their families. Particular care must be taken of children whose parents have been killed or who have been separated from their parents.

67. There is an urgent need to establish an investigative commission, under the auspices and in cooperation with the competent United Nations bodies, vested with the task of determining the fate of the thousands of persons who disappeared after the seizure of Vukovar as well as of other persons who disappeared during the conflicts in the former Yugoslavia. The Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights may be called upon to advise and assist in this regard.

VI.

68. The establishment of an information agency independent of local authorities might help to counteract the dissemination of hatred among the population. This agency should be granted the means to operate effectively throughout the territory of the former Yugoslavia. An appeal for funds for this purpose should be made to the European Governments and other potential donors. In view of the need for long-term re-education efforts, the parties to the conflict should be obliged to ensure that the proposed agency is provided with appropriate radio and television time in Belgrade, Zagreb and Sarajevo. The proposed agency should also be able to support local media, providing that they disseminate objective information and operate in a manner so as to encourage the creation of mutual confidence between national and religious communities.

VII.

69. The need to prosecute those responsible for mass and flagrant human rights violations and for breaches of international humanitarian law and to deter future violators requires the systematic collection of documentation on such crimes and of personal data concerning those responsible.

70. A commission should be created to assess and further investigate specific cases in which prosecution may be warranted. This information should include data already collected by various entities within the United Nations system, by other intergovernmental organizations and by non-governmental organizations.

VIII.

71. The multiplicity of international activities aimed at bringing conflict and human rights violations in the former Yugoslavia to an end limits the efficiency of such efforts. Consequently, there is an urgent need for concerted international action to improve the fate of victims of human rights violations. The decisions of the London Conference, in particular the creation of the Steering Committee, is a step in this direction. Better coordination among the various United Nations agencies and bodies would also contribute to improving the efficiency of such international efforts.

72. Further implementation of the mandate of the Special Rapporteur requires the appointment of staff based in the territories of the former Yugoslavia, in order to coordinate the monitoring of human rights violations together with the other United Nations bodies mentioned above, and the creation of an adequate professional and logistical infrastructure within the Centre for Human Rights. It also requires the establishment of a working relationship with other multilateral initiatives, in particular the above-mentioned Steering Committee.

73. An urgent decision approving the creation of such an infrastructure is indispensable for the effective implementation of the mandate given the Special Rapporteur by the Commission on Human Rights. The Special Rapporteur will keep the Commission informed in this regard.

Annex I

PROGRAMME OF THE VISIT OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS SITUATION IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Friday, 21 August 1992

Arrival at Zagreb.

Meetings with UNPROFOR and UNHCR.

Meeting with the Vice-President of Croatia and Members of the Croatian Government.

Meeting with representatives of non-governmental organizations.

Saturday, 22 August 1992

Meeting by the Special Rapporteur in Zagreb with victims and witnesses of human rights violations.

Visit by the Special Rapporteur to Varazdin refugee camp to meet newly arrived refugees from Bosnia and Herzegovina.

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Meeting by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman of the Working Group on Arbitrary Detention with authorities of the Government of Bosnia and Herzegovina in Bihac.

Meeting by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman of the Working Group on Arbitrary Detention with representatives of ICRC and UNHCR in Bihac.

Visit by the Chairman of the Working Group on Arbitrary Detention to Bihac prison and interview of prisoners.

Sunday, 23 August 1992

Visit by the Special Rapporteur to Banja Luka (Bosnia and Herzegovina) and meeting with local authorities of the "Serbian Republic of Bosnia and Herzegovina".

Meeting by the Special Rapporteur with representatives of ICRC in Banja Luka.

Visit by the Special Rapporteur to Manjaca military detention camp.

Meeting by the Special Rapporteur with religious dignitaries in Banja Luka.

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Meeting by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman of the Working Group on Arbitrary Detention with the UNPROFOR civil affairs coordinator for UNPA-West.

Visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions to Karlovac refugee camp and interview with witnesses from Bosnia and Herzegovina.

Visit by the Chairman of the Working Group on Arbitrary Detention to Bjelovar prison (Croatia) and interviews with prisoners and prison officials.

Monday, 24 August 1992

Visit to Sarajevo and meeting with the President of Bosnia and Herzegovina and members of the Government.

Meeting with local non-governmental organizations.

Visit by the Special Rapporteur to the State Hospital at Sarajevo.

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Meeting by the Special Rapporteur with the President of Croatia.

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Meeting by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman of the Working Group on Arbitrary Detention with UNPROFOR officials in Sarajevo.

Tuesday, 25 August 1992

Visit by the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions to Belgrade.

Meeting with the President of the Federal Republic of Yugoslavia and members of the Government.

Meeting by the Special Rapporteur with the President of Serbia.

Meeting by the Special Rapporteur with political leaders of the "Serbian Republic of Bosnia and Herzegovina".

Meeting with representatives of UNHCR and ICRC.

Meeting by the Special Rapporteur with leaders of opposition parties and representatives of ethnic groups from Kosovo, Vojvodina and Sandzac.

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Visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions to a refugee camp near Belgrade.

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Meeting of the Chairman of the Working Group on Arbitrary Detention with members of the UNPROFOR civilian administration, civilian police and press officers in Zagreb.

Meeting of the Chairman of the Working Group on Arbitrary Detention with a Croatian judge in Bjelovar.

Meeting of the Chairman of the Working Group on Arbitrary Detention with representatives of the European Community Monitoring Mission Humanitarian Office in Zagreb.

Wednesday, 26 August 1992

Visit by the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions to Vukovar, UNPA-East.

Meetings with UNPROFOR staff (Vukovar).

Visit to the market of Vukovar, conversations with the population.

Meeting with local authorities of the "Serbian Republic of Krajina" in Vukovar.

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Meeting by the Special Rapporteur on extrajudicial, summary or arbitrary executions with displaced Croatians near Vukovar.

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Meeting by the Chairman of the Working Group on Arbitrary Detention with representatives of ICRC in Zagreb.

Departure for Geneva.

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The Special Rapporteur wishes to thank the Chairman of the Working Group on Arbitrary Detention, Mr. L. Joinet, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. B.W. Ndiaye. He also wishes to express his thanks to UNPROFOR without whose logistical assistance it would not have been possible to visit so many different places in the area, to UNHCR for having facilitated meetings with local authorities outside areas controlled by UNPROFOR, and to ICRC.

Annex II

OBSERVATIONS CONCERNING THE PARTIES IN CONTROL OF THE TERRITORIES VISITED

Three separate regions are under the control of the Government of Bosnia and Herzegovina, namely, part of the capital, Sarajevo; the region known as Bihac, adjacent to the border with Croatia in north-west Bosnia; and parts of central Bosnia and Herzegovina.

Much of the territory of Bosnia and Herzegovina is not under the control of the recognized Government. Most observers agree that the "Serbian Republic of Bosnia and Herzegovina", an unrecognized government proclaimed when Bosnia and Herzegovina declared its independence from Yugoslavia against the wishes of the Serbian population, controls between 50 and 70 per cent of the territory. The headquarters of the "Serbian Republic of Bosnia and Herzegovina" is located in the city of Pale, a short distance from Sarajevo, the besieged capital of Bosnia and Herzegovina. It is comprised of four "autonomous regions", one of which, Banja Luka, was visited by the Special Rapporteur. According to the information received, the law applied within the "Serbian Republic of Bosnia and Herzegovina" is the law of the Federal Republic of Yugoslavia, as modified by the local legislatures. There is wide agreement that the Governments of the Federal Republic of Yugoslavia and of Serbia exercise considerable influence over the leadership of the ethnic Serbs of Bosnia and Herzegovina. There is also some evidence that the "Serbian Republic of Bosnia and Herzegovina" does not completely control all parts of Bosnia and Herzegovina in the hands of ethnic Serbs, in particular the so-called Serbian Autonomous Republic, a region in the north-eastern corner controlled by a paramilitary group called the White Eagles under the leadership of a person known by the nom de guerre of "Mauzer".

Approximately one third of the territory of Croatia is under the control of ethnic Serbs, rather than the Government of Croatia. The civilian authorities in these areas claim to form what is known as the "Serbian Republic of Krajina", an unrecognized government, and militia forces loyal to the "Serbian Republic of Krajina" control these areas. Since April 1992 these areas are under the protection of the United Nations Protective Force (UNPROFOR), which strives to control the activities of the militia. Civilian police officials attached to UNPROFOR also investigate human rights abuses, turning the information obtained over to the local police for action.

In addition to the Croatian army, two militias operate in Croatia. One, known by the acronym HOS, is the military wing of a political party known as the Croatian Right Party whose ideology is openly fascist. Although the party received only a small number of votes in recent elections, the HOS militia is reportedly large. Some observers consider that some of the most serious violations of the human rights of ethnic Serbs reported in Croatia are due to this militia.